

REMARKS

1. Examiner Le telephoned on December 17, 2003, to inform the undersigned that the Amendment filed on Nov. 24, 2003, would not be entered because the Amendment did not conform to 37 C.F.R. § 1.121. The claims that were withdrawn in response to the restriction requirement are Claims 4-5, 21-22, and 26-28. These claims have been reproduced, labeled as "withdrawn" and included in the above listing of claims. The Examiner is thanked for his courtesy in pointing out the error. The Examiner is also requested to consider that a response to the office action mailed on September 24, 2003, was made within the two-month deadline, November 24, 2003, for purposes of issuing an advisory action, should one be necessary in this application.

2. Claims 1-3, 7-14, 16-20, and 23-25 are pending in the application. Claims 4, 5, 21, 22 and 26-28 have been withdrawn because of the restriction requirement. Claims 6 and 15 have been cancelled. The Examiner is thanked for withdrawing the rejection of Claims 1-3 under 35 U.S.C. §102(b), and for withdrawing the rejection of Claims 1-3, 7-8, and 23-25 under 35 U.S.C. §112, paragraph 2. Claim 1 has been amended to correct a typographical error.

3. The Examiner has rejected Claim 2 under 35 U.S.C. §112, paragraph 1, for not being enabled by the specification. Claim 2 has been amended in accordance with the Examiner's suggestion, for which the Examiner is thanked. The Examiner is respectfully requested to withdraw the rejection of Claim 2 under 35 U.S.C. §112, paragraph 1. No new matter was added in amending Claim 2.

4. The Examiner has rejected Claims 9 – 13 under 35 U.S.C. §102(b) as anticipated by U.S. Patent No. 4,776,235 to Gleasman *et al.* ("Gleasman"). The rejection cites a series of components, such as a differential (14) and first and second output shafts (16, 17) as anticipating Claims 9-13 of the present application. Claims 9-13 are method claims. Applicants traverse the rejection because a number of the elements cited in the rejection are not present in the methods claimed in Claims 9-13, and the rejection cites no reference for most of the steps of the methods of Claims 9-13.

The rejection cites a reference for only two steps of the method claimed in Claim 9, and there is a logical inconsistency in applying the reference. The rejection states that "it is inherent that Gleasman not-slip imposed differential has the ability to recognize a difference in shaft output power application and to determine whether a correction in output power is needed." Office Action, p. 5, lines 3-5.

At the same time, in another part of the Office Action rejecting other claims, the rejection admits that Gleasman does not describe or suggest, and therefore the Gleasman reference lacks, a controller, a means for controlling and monitoring power, a means for measuring power in the first and second shafts, an inner rotor and an outer rotor. Office Action, page 6, last six lines. Thus, the office action itself argues that Gleasman cannot anticipate the claimed steps of "sensing a difference in shaft output power application," and "determining whether a correction in output power is needed."

As discussed below in the rejections under 35 U.S.C. §103(a), embodiments of the present invention use sensors in "sensing a difference in shaft output power application." Specification, p. 5, lines 14-24. The rejection cites no reference for, and Gleasman does not describe or suggest, this step of Claim 9 or any of the steps of dependent Claims 10-13. Gleasman therefore does not anticipate or disclose the methods claimed in Claims 9-13. Applicants therefore respectfully request the Examiner to withdraw the rejection of Claims 9 – 13.

5. The Examiner has rejected Claims 1-3, 7-8, 14, 16 – 20, and 23 – 25 under 35 U.S.C. §103(a) as being anticipated by Gleasman and U.S. Patent No. 6,520,880 to Fukushima *et al* ("Fukushima"). The rejection does not list claim elements for the independent claims, but lumps the elements together on pp. 5-6 of the Office Action. As mentioned above, the rejection admits that Gleasman does not describe or suggest, and therefore lacks, a controller, a means for controlling and monitoring power, a means for measuring power in the first and second shafts, an inner rotor and an outer rotor. Office Action, page 6, last six lines. The rejection then cites Fukushima as describing these elements, citing Figs. 1-2 and col. 1, line 58, to col. 6, line 5.

Applicants traverse the rejections because at least one element of each claimed invention is not described or suggested in the combination of references. For instance,

Claim 1 of the present application claims "a controller . . . receiving inputs from at least two sensors indicative of the output power of the [first and second output] shafts." The rejection cites Fukushima for these sensors, col. 5, lines 50-53. Office Action, p. 7, lines 4-5. This passage in Fukushima does not concern the balance of power in the differential, but rather refers to "a vehicular-speed sensor, a steering-angle sensor, a lateral G sensor, a yaw sensor, etc." These sensors will not inherently detect a wheel slip difference "indicative of the output power of the shafts" of the claimed torque controller. Fukushima cites no other sensors, such as wheel speed sensors or axle-shaft speed sensors, and repeats this same recital at col. 9, lines 39-42. While not limited to the embodiments disclosed, the present application cites sensors that sense wheel speed, half-axle speed, and pump rotor speeds. Specification, p. 5, lines 14-16, and p. 12, lines 6-7. These sensors are "indicative of the output power of the shafts," as claimed in Claim 1. Neither of the references describes or suggests such sensors.

Independent Claim 14 also claims "means for measuring power in the first and second shafts." These means are clearly linked to the sensors mentioned above, such as wheel speed sensors, shaft or half-axle speed sensors, and inner and outer rotor sensors. These sensors sense the speed of, and hence the controller can compute the power of, the first and second shafts of the claimed torque controller. Dependent Claim 14 claims directly some of the sensors which will accomplish these measurements. Independent Claim 23 directly claims "a controller connected to the pump receiving signals indicative of a speed of the first and second rotors." The references thus do not describe or suggest these required elements of independent Claims 1, 14, and 23.

In addition, Claim 23 recites a transfer assembly comprising a speed-up gear train. The Office Action cites no reference for the speed-up gear train. Fukushima does not disclose a transfer assembly. The transfer assembly disclosed in Gleasman does not recite a speed-up assembly. In fact, the gear or drive ratio between the control shafts and axle shaft of Gleasman, which corresponds to the drive ratio of the transfer assembly of the present invention, is stated to be preferably 1:1. Gleasman, col. 3, lines 31-32. As such, Gleasman does not recite a speed-up transfer assembly. Applicants therefore submit that Fukushima, alone or in combination with Gleasman, does not describe or suggest the claimed elements of Claim 23. Applicants further

submit that claims 24 and 25, dependent on Claim 23, and therefore are also not described or suggested by Fukushima, alone or in combination with Gleasman.

6. Applicants have amended the application to correct a typographical error in Claim 1. Applicants have amended Claim 2 in accordance with the Examiner's suggestion. Applicants submit that the arguments above concerning limitations not described or suggested in the references overcome the rejections under 35 U.S.C. §102(b) and §103(a). Applicants therefore believe that the application is in condition for allowance. Favorable reconsideration of the application is respectfully requested. If for any reason, the Examiner is unable to allow the application but believes that an interview would be helpful to resolve any issues, he is respectfully requested to call the undersigned at (312) 321-4711.

Respectfully submitted,

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